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THE IC

Medi Scene

Ohio | Industrial Commission

Keeping You Up-to-Date with the Industrial Commission

Did you Know?

Maximum medical improvement (MMI) is defined as a treatment plateau (static or well stabilized) where no fundamental or physiologic change can be expected within reasonable probability, in spite of continuing medical or rehabilitative procedures. An injured worker may require supportive care to maintain this level of function.

Examining the Issues- Maximum Medical Improvement

This quarter we've done a "one-eighty" with our format and moved the "Did you know?" section to the top. The reason is that this concept of "MMI" not only remains central to the determination of eligibility for Permanent Total Disability (PTD) benefits for injured workers, but also remains (surprisingly) misunderstood by many specialist examiners.

"How could this be?" you ask. "I've dealt with MMI for years not only as a treating doctor, but also as an expert examiner!" We'll try to break this down into some basic elements that might clarify the concept as it relates to PTD examinations. Consider the following:

1. The injured worker, by way of their application for PTD, has attested to the fact that he is permanently and totally disabled. He believes that he is at MMI.
2. The injured worker's physician of record and legal counsel have provided evidence in support of the PTD application. Each of them believes that the injured worker has reached MMI.
3. In many cases, the injured worker has already been found to have reached MMI by prior hearing order in the claim file.
4. MMI does not mean that the injured worker will not be allowed further treatment. As stated in the definition above, they may require maintenance treatment, for instance medication, physician visits, or counseling.
5. If there is a "new and changed circumstance," then the injured worker may go back to a temporarily disabled status. An example of this may be the request, approval, and performance of a new surgery for failed hardware that is allowing the injured worker to function at a higher level. Unless there is a worsening of the allowed condition, a mere prospect of improvement beyond a

level previously declared MMI will not justify a new recognition of TTD. The standard that must be shown is that there is a worsening of the allowed conditions accompanied by a prognosis that the worsening is only temporary.



6. A "treatment plateau," in this definition, refers to a plateau with the current treatment regimen. It is not meant to refer to a hypothetical situation where a declined or denied treatment could be rendered. It is not meant to apply to a hypothetical situation where treatment has not even been requested nor approved. The fact that an injured worker's physician or examining physician suggests that new or renewed treatment could generate improvement does not mean that TTD compensation may resume, unless there is a worsening of the allowed condition accompanied by a prognosis that the worsening is only temporary. Here are some examples:

- a. If an injured worker is scheduled for surgery next month, then they remain maximally improved at least until the time of that surgery, and may in fact remain so after the surgery. An examiner cannot speculate what they might be like after the surgery. The same could be said of a course of physical therapy, psychotherapy, or a medication change.

- b. On the other hand, if an injured worker applies for PTD, then has a procedure or treatment, and then presents for examination, this could represent a new and changed circumstance at the time of the examination, and they might then be determined not at MMI as they recover. Even this would depend on whether there has been a worsening of the allowed condition accompanied by a prognosis that the worsening is only temporary and the change is actually resulting in further improvement. This situation occurs in a PTD claim very rarely.

- c. If an injured worker has had a condition or treatment denied, if they have declined a proposed treatment, or if they and their physician for whatever reason have elected not to pursue a treatment, then the examiner should consider that the injured worker remains at MMI based on the current regimen. These denied or declined treatments, or treatments not pursued for whatever reason might include medications, surgery, psychotherapy, or physical therapy.

In summary, it is apparent that the circumstance in which an injured worker would present for a specialist examination for PTD benefits and not be considered at MMI would be rare. The role of the specialist examiner in PTD examinations is to consider if the injured worker remains at MMI with the current treatment regimen, rather than to propose or advocate for additional treatment. Specialist examiners should avoid opining that the allowed conditions are no longer at MMI, when that opinion is based on speculation of possible future treatment, which has not been performed, approved, or in some instances, requested.

Continuing education review questions MediScene Apr. 2010

1. When an injured worker is considered MMI, it means that no further treatment is necessary or appropriate.
 - A. True
 - B. False
2. An injured worker cannot and should not be considered MMI if they have an upcoming surgical procedure to address an allowed condition in their claim.
 - A. True
 - B. False
3. An example of an injured worker who presents for a PTD examination and could reasonably be considered no longer at MMI is (choose **two**):
 - A. An injured worker who is scheduled for their fourth low back operation.
 - B. An injured worker with an allowed condition of depression, who might benefit from counseling or a medication change.
 - C. An injured worker with an allowed condition of lumbar disc herniation who has had physical therapy, epidural steroids, and surgical consultation requests denied.
 - D. An injured worker with an allowed condition of lumbar disc herniation with good post-operative results who experiences recurrent disc herniation prior to the PTD examination.
 - E. An injured worker with an allowed condition of cataract, with good post-operative results after lens implantation, whose lens becomes dislocated.
4. Which of the following is false regarding MMI in injured workers who have applied for PTD?
 - A. They have attested to the fact that they are permanently and totally disabled.
 - B. Their physicians of record and legal counsel have provided evidence to support their application.
 - C. Many have already been found to have reached MMI by prior hearing order.
 - D. They are not entitled to further medical care for the allowed conditions after they apply.

(Answers: 1. B.; 2. B.; 3. D. and E.; 4. D.)